



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, NY 10007

December 3, 2019

BY ECF

The Honorable J. Paul Oetken
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *United States v. Capser*, 19 Cr. 337 (JPO)

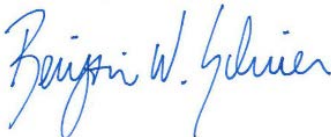
Dear Judge Oetken:

The Government respectfully writes, without objection from defense counsel, to request an adjournment sine die of the sentencing hearing of Todd Capser, the defendant in the above-captioned case. Capser is currently scheduled to be sentenced this Friday, December 6, 2019, at 10:30 a.m. The reason for the Government's request is that the Government believes that Capser has engaged in a distinct fraud while awaiting sentencing, and that this fact would be critical to the Court's sentencing determination. The Government had anticipated charging Capser with the fraud in question before sentencing, but has not yet done so, due to potential venue issues. The Government would, however, be prepared to prove the fraud by a preponderance of the evidence at a *Fatico* hearing, if Capser were unwilling to admit it.

Earlier today, the Government provided defense counsel with a reverse proffer regarding the fraud. Once defense counsel has had an opportunity to discuss the matter with Capser, the Government and defense counsel will confer further regarding whether a *Fatico* hearing will be necessary. If the Court were to grant the instant request, the Government and defense counsel would then jointly propose a new date for the sentencing hearing.

Respectfully Submitted,

GEOFFREY S. BERMAN
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